IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No.1300 of 2006
With
FIRST APPEAL No.1302 of 2006
To
FIRST APPEAL No.1314 of 2006

For Approval and Signature:

HONOURABLE MR. JUSTICE J. M. PANCHAL
AND
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1	Whether Reporters of Local Papers may be allowed to see the judgment?
2	To be referred to the Reporter or not?
3	Whether Their Lordships wish to see the fair copy of the judgment?
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5	Whether it is to be circulated to the Civil Judge?

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SPECIAL LAND ACQUISITION OFFICER - Appellant
Versus
PATEL NATVARBHAI JESANGBHAI & ORS. - Respondents

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Appearance :
MR RC KODEKAR for Appellant in each appeal.
MR KM SHETH for Claimant(s) in FA Nos.1300 & 1302 to 1313 of 2006.
MR YATIN SONI for Claimant in FA No.1314 of 2006.
MR AD OZA for Executive Engineer, Narmada Yojna, Div.No.4/3, Mehsana.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 02/05/2006

ORAL JUDGMENT

(Per : MR.JUSTICE J.M.PANCHAL)

All the abovenumbered appeals are ***admitted.*** Mr.K.M.Sheth, learned counsel, waives service of notice on behalf of the claimant/claimants in First Appeal

Nos.1300 & 1302 of 2006 to 1313 of 2006. Mr.Yatin Soni, learned counsel, waives service of notice on behalf of the claimant of First Appeal No.1314 of 2006. Mr.A.D.Oza, learned counsel, waives service of notice on behalf of the Executive Engineer, Narmada Yojna, Division No.4/3, Mehsana, in each appeal. Having regard to the facts of the case, all these appeals are taken up for final disposal today.

2. By means of filing these appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908, the appellant, i.e. Special Land Acquisition Officer, Narmada Project, Unit No.3, Ellisbridge, Ahmedabad, has challenged legality of common judgment and award dated December 10, 2003 rendered by the learned Second Extra Assistant Judge & Special Judge (L.A.Q.), Ahmedabad (Rural) at Navrangpura, in Land Acquisition Case Nos.1463 of 1996 to 1477 of 1996, by which the Reference Court has held that the claimants are entitled to additional compensation at the rate of Rs.14.90 paise per square metre for their acquired land over and above the compensation of Re.1/- per square metre for non-irrigated land and Rs.1.50 paise per square metre for irrigated land awarded by the

Special Land Acquisition Officer.

3. A proposal to acquire the lands of Village: Shivpura, Taluka: Viramgam, District: Ahmedabad, for the public purpose of construction of Narmada Canal was received by the State Government. On verification of the said proposal, the State Government was satisfied that the lands of Village: Shivpura were likely to be needed for the said public purpose. Therefore, notification under Section 4 of the Land Acquisition Act, 1894 (“the Act” for short) was issued, which was published in the official gazette on August 30, 1992. The owners whose lands were sought to be acquired were served with the notices under Section 4 of the Act. They had filed their objections against the proposed acquisition. After considering their objections, the Special Land Acquisition Officer forwarded his report as contemplated by Section 5A(2) of the Act to the State Government. On consideration of the said report, the State Government was satisfied that the lands of Village: Shivpura specified in the notification published under Section 4(1) of the Act were needed for public purpose of construction of Narmada Canal. Therefore, a declaration under Section 6 of the Act was made, which was published

in the official gazette on March 31, 1994. The interested persons were thereafter served with the notices under Section 9 for determination of the compensation. The claimants appeared before the Land Acquisition Officer and claimed the compensation at the rate of Rs.25/- per square metre. However, having regard to the materials placed before him, the Special Land Acquisition Officer offered compensation at the rate of Re.1/- per square metre for non-irrigated land and Rs.1.50 paise per square metre for irrigated lands. The claimants were of the opinion that the offer of the compensation made by the Land Acquisition Officer was inadequate. Therefore, they submitted applications in writing requiring the Land Acquisition Officer to refer the matters to the Court for the purpose of determination of the compensation. Accordingly, the references were made to the District Court, Ahmedabad, which were numbered as noticed earlier.

4. On behalf of the claimants, witness Natvarbhai Jeshangbhai Patel was examined at Exh.33. According to Mr.Natvarbhai Patel, all the acquired lands were even as well as fertile and were having irrigation facility. According to him, each claimant was taking three different crops in a year and was earning net

agricultural income of Rs.25,000/- per *vigha* per year. What was mentioned by Mr.Patel in his testimony was that Village Shivpura is situate on Kadi-Viramgam Road and as Village Shivpura has all the facilities like light, water works, telephones, primary school, *anganvadi,* milk society, etc., the claimants were entitled to enhanced compensation. It was mentioned by Mr.Patel that villages Detroj, Bhavda, Panar, Devpura, etc. are situated near Village Shivpura and that the claimants were entitled to compensation, which was given to the claimants residing in villages Detroj and Bhavda for their acquired lands. Though the witness was cross-examined at length by the learned District Government Pleader, nothing could be brought on record to demonstrate that the assertions made by him were false. On behalf of the respondent No.2, i.e. the Executive Engineer, Narmada Yojna, Division No.4/3, Mehsana, witness Yogeshbhai Bhikhabhai Shukla was examined at Exh.46. It was claimed by the said witness that the Special Land Acquisition Officer had awarded compensation after taking into consideration the relevant factors and, therefore, the claimants were not entitled to enhanced compensation. On consideration of the evidence adduced by the parties, the Reference Court was of the opinion that Exh.29, which was judgment rendered

by Reference Court in Land Acquisition Case No.2192 of 1996 relating to the lands of Village Detroj, as well as Exh.32, which was judgment rendered by Reference Court in Land Acquisition Case No.2084 of 1996 relating to the lands of Village Bhavda, and Exh.50, which was judgment rendered by Reference Court in Land Acquisition Case No.1479 of 1996 of Village Chunipura, were relevant as well as furnished guidance for the purpose of assessing the market value of the lands acquired from Village Shivpura. In view of the said conclusion, the Reference Court has relied upon the previous awards and awarded additional compensation of Rs.14.90 paise per square metre to the claimants for their acquired lands by judgment and award dated December 10, 2003, giving rise to the instant appeal.

5. This Court has heard Mr.R.C.Kodekar, learned Assistant Government Pleader appearing for the appellant, as well as Mr.K.M.Sheth, learned counsel appearing for the claimant(s) in First Appeal Nos.1300 & 1302 to 1313 of 2006, & Mr.Yatin Soni, learned counsel appearing for the claimant in First Appeal No.1314 of 2006, as well as Mr.A.D.Oza, learned counsel appearing for the acquiring body in each appeal, at length and in great detail. This

Court has also considered the documents produced by the learned counsels for the parties for perusal of the Court.

6. It is well settled that the awards rendered by Reference Court in respect of similar lands and which have become final, can be taken into consideration for the purpose of assessing the market value of the lands acquired from a nearby village. Exhibit 29 is the judgment and award delivered by the Reference Court in Land Acquisition Case No.2192 of 1996 to 2205 of 1996 on November 3, 1999. Therein the Reference Court was called upon to determine the market value of the lands of Village: Detroj, which were acquired for the purpose of construction of Goraiya Branch of Narmada Project pursuant to notification issued under Section 4(1) of the Act, which was published in official gazette on January 17, 1994. After considering the evidence adduced in the said case, the Reference Court was of the opinion that the claimants were entitled to compensation at the Rs.18/- per square metre for their acquired lands over and above the compensation awarded by the Special Land Acquisition Officer. Exhibit 32 is the judgment and award rendered by the Reference Court on September 15, 2003 in

Land Acquisition Case Nos.2079 of 1996 to 2090 of 1996. Therein the Reference Court was concerned with determination of market value of the lands of Village Bhavda, Taluka: Viramgam, District: Ahmedabad, which were acquired for the purpose of Narmada Canal pursuant to notification published in the gazette on June 11, 1992, which was issued under Section 4(1) of the Act. On consideration of the evidence, the Reference Court awarded additional compensation of Rs.13/- per square metre to the claimants for their acquired lands over and above the compensation, which was already awarded by the Land Acquisition Officer. Again, Exhibit 50 is the judgment of the Reference Court dated November 10, 2003 rendered in Land Acquisition Case Nos.1478 of 1996 to 1486 of 1996. Therein the Reference Court was concerned with determination of the market value of lands of Village Chunipura, Taluka: Viramgam, District: Ahmedabad, which were acquired for the public purpose of Narmada Canal pursuant to the notification under Section 4(1) of the Act, which was published in the official gazette on May 30, 1992. On the basis of the evidence adduced by the parties, the Reference Court awarded additional compensation at the rate of Rs.15.50 paise per square metre for the acquired lands over and above the

compensation, which was already awarded by the Land Acquisition Officer.

In this case, the witness examined by the claimant had asserted that village Detroj, village Bhavda, and village Chunipura are situate near village Shivpura. This assertion could not be demonstrated to be untrue by the other side.

7. Having regard to the facts of the case, this Court is of the opinion that the Reference Court did not commit any error in placing reliance on previous awards for the purpose of determining the market value of the lands acquired from Village: Shivpura. The learned Assistant Government Pleader could not point out to this Court that an error was committed by the Reference Court in placing reliance on the previous awards while determining the market value of the lands of Village: Shivpura. The record does not show that the previous awards relied on by the Reference Court were challenged before higher forum. Thus, those awards have become final and, therefore, the Reference Court was justified in placing reliance on them. On overall view of the matter, this Court is satisfied that just compensation has been

determined by the Reference Court and no case is made out by the learned counsel for the appellant to interfere with the same in the instant appeals. The appeals, which lack merits, are liable to be dismissed.

For the foregoing reasons, all the appeals fail and are dismissed. There shall be no orders as to costs. The Office is directed to draw the decree in accordance with the judgment.

[J.M.PANCHAL, J.]

[BANKIM N. MEHTA, J.]

Rajendra